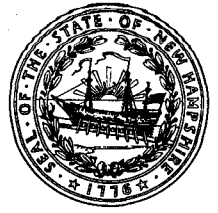




State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2147 FAX (603) 271-6588



LETTER OF DEFICIENCY  
WET 2004-44

August 18, 2004

Peter & Maxine Derby  
2 Sanford Road  
Chelmsford, MA 01824

RE: DES Wetlands File #2000-1101 Lockes Island, Gilford Tax Map 243, Lot 32

Dear Mr. and Ms. Derby:

On July 20, 2004, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Gilford Tax Map 243 as Lot 32 (the "Property"). The purpose of the inspection was to determine whether the Property is in compliance with RSA 482-A, NH Code of Admin. Rules Wt 100-700 and Wetlands and Non-site Specific Permit #2000-1101 (the "Permit"). The Permit authorized installation of a 39' breakwater and docking facility consisting of a 6' x 33' cantilevered pier and a 6' x 26' piling supported pier connected by two 6' x 8' walkways on the Property in accordance with plans by Diversified Marine dated July 19, 2000 (the "Plans").

During the inspection the following deficiencies were documented:

1. The decked area of the walkway connecting the cantilevered pier to the piling supported pier is larger than the decked area shown in the approved Plans. The walkway measures 16'4" at the widest point and about 12'4" wide on average. The Plans and Permit specify two 6' wide walkways.
2. The piling supported pier measures 6' x 32'1" which is 6'1" longer than authorized by the Permit.
3. DES personnel observed a 140 sq ft concrete boat ramp located approximately 56' north of the docking facility. The concrete boat ramp is not shown on the Plans but the structure appears to have been preexisting based on the weathered appearance of the concrete.
4. A 7'9" wooden ramp was chained to the concrete boat ramp to connect it to a floating pier. The floating pier measured 6' wide x 23'10" long and extended 31'3" from normal high water. Three tie off cleats were observed along the edge of on each side of the

decking surface. A review of DES records indicates that DES has not issued a permit for this pier or wooden access ramp. During an August 13, 2004, phone conversation with DES personnel you stated that the floating pier is actually a barge and should not require a wetlands permit. During the inspection, DES personnel observed that the structure was not secured within a legally existing boatslip. DES rules define a dock as a structure intended for securing of watercraft and for discharge/loading of goods, passengers or freight whether the structure is in the water or not. The tie-offs cleats and the structure's separation from the existing docking facility indicate that the structure is intended for securing watercraft and therefore requires a permit.

5. The breakwater measures 41' long with a 6' gap at the shoreline. The Permit and Plans specify a 39' breakwater with an 8' gap at the shoreline.
6. Specific Condition 2 of the Permit requires that "This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau prior to construction." A review of DES records indicates that a copy of the registered permit has not been submitted to DES.

In response, you are requested to take the following actions:

1. Within 30 days of the date of this Letter of Deficiency please submit a copy of the recorded Permit to DES.
2. Within 30 days of the date of this Letter of Deficiency please submit a restoration plan to DES for review. The restoration plan should include the following:
  - a. A dated plan, dimensioned or drawn to scale, showing existing conditions on the Property. The "existing conditions" plan should include dimensions of all structures on the frontage including the concrete boat ramp, the location of each structure relative to other structures on the frontage, the distance from each structure to normal high water and the distance from each structure to the abutting property lines; and,
  - b. A plan, dimensioned or drawn to scale, that shows restoration of the walkways to no more than 6' wide x 8' long and removal of the floating pier and wooden access ramp. The restoration plan should include: a description of any proposed modification or relocation of structures necessary to bring the structures into compliance with the Permit and Plans and a construction sequence including materials and methods proposed for completion of the work, a description of how the site will be accessed for construction and a timeframe for completion of the work.
3. Implement the restoration plan only after receiving written approval and as conditioned by DES.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

D. Forst, Shoreland Program Supervisor  
Wetlands Bureau  
Department of Environmental Services  
29 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact me at (603) 271-2147.

Sincerely,

**COPY**

D. Forst  
Shoreland Program Supervisor  
Wetlands Bureau

CERTIFIED MAIL # 7099 3400 0003 0695 2348

cc: Rene Pelletier, Manager, Land Resources Management Program  
Gretchen R. Hamel, Administrator, DES Legal Unit —  
Gilford Conservation Commission  
Gilford Board of Selectmen  
USACOE  
Diversified Marine Construction Corp.